

I. REAL PARTY IN INTEREST

As evidenced by the assignment recorded at Reel/Frame 014545/0946, the subject application is owned by Sun Microsystems, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware, and having its principal place of business at 4150 Network Circle, Santa Clara, CA 95054.

II. RELATED APPEALS AND INTERFERENCES

No other appeals, interferences or judicial proceedings are known which would be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

Claims 1-42 are pending in the application and stand finally rejected. The rejection of claims 1-42 is being appealed. A copy of claims 1-42 is included in the Claims Appendix hereinbelow.

IV. STATUS OF AMENDMENTS

No amendments to the claims, specification, or drawings have been filed subsequent to the final rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 is directed to a method comprising executing an instant messenger client on a computer system (*see, e.g.*, FIG. 1, instant messenger client 100a, FIG. 2, computer system 20b; specification at [0024], [0047]-[0048]). The method further includes detecting a computer system activity level indicative of activity of said computer system (*see, e.g.*, FIG. 4A, block 300; specification at [0065], [0070]). The method further includes determining whether said activity level exceeds an activity threshold in response to said detecting (*see, e.g.*, FIG. 4A, block 302; specification at [0066], [0071]). The method also includes transitioning a presence state specific to said instant messenger client to a busy state in response to determining that said activity level exceeds said activity threshold, wherein said presence state corresponds to a given user (*see, e.g.*, FIG. 4A, block 306; specification at [0068], [0072]).

Independent claim 15 is directed to a computer-accessible storage medium storing program instructions (*see, e.g.*, FIG. 2, memory 210, code 215; specification at [0052], [0061]), wherein the program instructions are computer-executable to implement an instant messenger client executable on a computer system (*see, e.g.*, FIG. 1, instant messenger client 100a, FIG. 2, computer system 20b; specification at [0024], [0047]-[0048], [0069]).

The instructions are further executable to detect a computer system activity level indicative of activity of said computer system (*see, e.g.*, FIG. 4A, block 300; specification at [0065], [0070]), and to determine whether said activity level exceeds an activity threshold in response to said detection (*see, e.g.*, FIG. 4A, block 302; specification at [0066], [0071]). The instructions are also executable to transition a presence state specific to said instant messenger client to a busy state in response to said determination that said activity level exceeds said activity threshold, wherein said presence state corresponds to a given user (*see, e.g.*, FIG. 4A, block 306; specification at [0068], [0072]).

Independent claim 29 is directed to a system comprising a computer system and an instant messenger client software module configured to execute on said computer system (*see, e.g.*, FIG. 1, instant messenger client 100a, FIG. 2, computer system 20b; specification at [0024], [0047]-[0048]). The instant messenger software module is further configured to detect a computer system activity level indicative of activity of said computer system (*see, e.g.*, FIG. 4A, block 300; specification at [0065], [0070]) and determine whether said activity level exceeds an activity threshold in response to said detection (*see, e.g.*, FIG. 4A, block 302; specification at [0066], [0071]). The instant messenger software module is also configured to transition a presence state specific to said instant messenger client software module to a busy state in response to said determination that said activity level exceeds said activity threshold, wherein said presence state corresponds to a given user (*see, e.g.*, FIG. 4A, block 306; specification at [0068], [0072]).

The summary above describes various examples and embodiments of the claimed subject matter. However, the claims are not necessarily limited to any of these examples and embodiments. The claims should be interpreted based on their respective wording.

VI. GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1, 15, and 29 stand provisionally rejected under the judicially-created doctrine of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 8, 20, 27, 39 and 46 of co-pending Application No. 10/670,849 in view of Horvitz (U.S. Publication 2008/0104517) (hereinafter Horvitz), and over claims 1, 8, 11, 18, 21 and 28 of co-pending Application No. 10/670,549 in view of Horvitz.

2. Claims 1-3, 6, 8, 9, 12, 15-17, 20, 22, 23, 26, 29-31, 34, 36, 37 and 40 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz in view of Jackson et al. (U.S. Publication 2002/0152305) (hereinafter Jackson).

3. Claims 4, 18 and 32 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz and Jackson in view of Barsness (U.S. Patent 7,337,210).

4. Claims 15, 19 and 33 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz and Jackson in view of Canfield et al. (U.S. Publication 2008/0092063) (hereinafter Canfield).

5. Claims 7, 21 and 35 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz and Jackson in view of Burnley et al. (U.S. Publication 2007/0061450) (hereinafter Burnley).

6. Claims 10, 24 and 38 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz and Jackson in view of Matsumoto et al. (U.S. Publication 2001/0025314) (hereinafter Matsumoto).

7. Claims 11, 25 and 39 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz, Jackson and Matsumoto in view of Barsness.

8. Claims 13, 14, 27, 28, 41 and 42 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz and Jackson in view of Horvitz (U.S. Publication 2004/0030753) (hereinafter Horvitz '753).

VII. ARGUMENT

First ground of rejection:

Claims 1, 15, and 29 stand provisionally rejected under the judicially-created doctrine of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 8, 20, 27, 39 and 46 of co-pending Application No. 10/670,849 in view of Horvitz, and over claims 1, 8, 11, 18, 21 and 28 of co-pending Application No. 10/670,549 in view of Horvitz. Appellant notes that this rejection is necessarily provisional because the claims in the co-pending applications have not yet been patented. Nevertheless, Appellant respectfully traverses this rejection for at least the reason that the rejection's reliance on Horvitz is flawed, as discussed in greater detail below with regard to the § 103 rejections.

Second ground of rejection:

Claims 1-3, 6, 8, 9, 12, 15-17, 20, 22, 23, 26, 29-31, 34, 36, 37 and 40 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz in view of Jackson. Appellant respectfully traverses this rejection for at least the following reasons. Different groups of claims are addressed under their respective subheadings.

Claims 1-3, 6, 8, 9, 15-17, 20, 22, 23, 29-31, 34, 36, 37:

Appellant submits that the cited references fail to teach or suggest all of the features of the independent claims. In particular, Appellant notes that claim 1 requires, among other features, “executing an instant messenger client on a computer system” and “transitioning a presence state specific to said instant messenger client to a busy state in response to determining that said activity level exceeds said activity threshold, wherein said presence state corresponds to a given user.” In rejecting claim 1, the Examiner contends that paragraphs [0063] and [0091] of Horvitz disclose this feature. Office

Action at 6-7. Appellant respectfully disagrees and notes that substantial differences exist between Horvitz's disclosure and the requirements of claim 1.

Horvitz is generally directed towards a "communications architecture that facilitates ideal communication links between contactors and contactees." Horvitz at [0002]. In particular, Horvitz provides a contact manager (contact manager 30 of FIG. 1; contact manager 4140 of FIG. 52) configured to "make decisions regarding how to establish communication between the contactors and contactees in accordance with the communications preferences." *Id.* at [0055]. More specifically, Horvitz discloses that the contact manager attempts to "identify optimal communication modalities between two or more communicating parties." *Id.* at para. [0095].

Horvitz illustrates the relationship between various system components in FIG. 52. Here, Horvitz illustrates communication 4110 occurring between contactor 4120 and contactee 4130, subject to the input of contact manager 4140. It is communication 4110 that "may be achieved through a variety of modalities" that may include "instant messaging." *Id.* at [0096]. But as is shown in FIG. 52, communication 4110 is a distinct entity from contact manager 4140.

That is, Horvitz is generally directed to determine how communication 4110 should occur, which one possible modality being for it to occur through an instant messenger, and another possible modality being telephony or email. However, Horvitz does not discuss the details of what the instant messenger is doing when it is being used. Instead, Horvitz discusses the operation of the contact manager to decide whether instant messaging or some other modality should even be used in the first instance.

Applicant notes that claim 1 does not merely require the existence of an instant messenger client and some activity with respect to a presence state. Instead, claim 1 specifically requires "transitioning a presence state specific to [an] instant messenger client to a busy state" in response to a determination with respect to a computer system activity level. While Horvitz discusses various types of context states including "busy

levels” at para. [0063], these context states are not presence states that are specific to an instant messenger client. Instead, they are defined only with respect to the contact manager system.

Horvitz provides a specific example of the busy context state in FIG. 24, described at para. [0081]. Here, Horvitz shows a GUI that may be presented to a user to allow the user to alter presence, activity, or other context variables. However, there is no evidence in Horvitz that demonstrates that a user’s manipulation of these variables within the context manager system results in a change in a presence state that is specific to an instant messenger client. In fact, the only extent to which Horvitz mentions instant messaging at all is as one of many “modalities” via which communications may occur, along with email, telephony, and numerous other modes of communication. That is, in Horvitz, instant messaging is merely a conduit for communication. Horvitz omits any specific discussion regarding the internal details of instant messaging, much less the manipulation of presence states of an instant messenger client.

In response to the foregoing, the Examiner states that “[a]ccording to Horvitz, a client is able to communicate via instant messages and thus the client is considered as an instant messenger client.” Office Action at 2. Appellant notes that this analysis is inconsistent with the plain language of claim 1. Horvitz speaks of a system for communications between “contactors and contactees.” Horvitz at [0008]. However, in Horvitz, these entities are users of the system who are capable of interacting with the system via its user interface. *Id.* Thus, the state stored by Horvitz’s contact manager pertains to the state of these users.

But claim 1 clearly states “executing an instant messenger client on a computer system.” Thus, both the instant messenger client and, by extension, its state are distinct from Horvitz’s users and their state, because the instant messenger client required by claim 1 must be something capable of being executed on a computer system, whereas Horvitz’s contactors and contactees are users of Horvitz’s system.

Although Horvitz mentions instant messaging, Horvitz simply fails to discuss details of how an instant messenger client operates, including its presence state. The Examiner appears to be arguing that because Horvitz discloses contact manager state as well as the use of an instant messenger, Horvitz necessarily discloses a presence state specific to an instant messenger client executing on a computer system. As Appellant has noted above, Horvitz's contact manager state has nothing to do with presence state associated with an instant messenger client.

Moreover, Appellant submits that no aspect of Horvitz's contact manager is specific to an instant messenger client in the manner required by claim 1, not least of all because the contact manager is generic to many different modalities besides instant messaging (e.g., telephony, email). That is, the state that Horvitz discloses is actually the state of a user of Horvitz's system, independent of any particular communication modality. "[I]nterface users can define one or more states of busy-ness or availability, . . . [which] can be employed to enable users to generally define atypical or other context settings whereby the user is or is not in the defined state." Horvitz at [0063]. That is, in Horvitz, the state of "busy" is specific to a particular user, and does not reflect the state of the instant messenger client itself.

The manner in which Horvitz utilizes this state information further illustrates that it is specific to the user and not to the client. State information is part of contactor data 4150. *Id.* at [0100]. Using the contactor data, Horvitz's contact manager attempts to identify the optimal modality of communication for that user from among numerous possible modalities. *Id.* at [0102]; [0148] (modalities include "mail . . . , telephone . . . , paging, runners/couriers, video conferencing, face-to-face meeting, instantaneous collaborative editing"). Thus, contrary to the Examiner's assertion, the user state in Horvitz is not representative of an **instant messenger client** (i.e., a client capable of executing on a computer system, as required by claim 1) or adapted for that particular **client**. Nor is the user state specific to any specific communication modality. Instead, it is representative of a user, and used to select one of many possible communication modalities.

Moreover, there is no indication in Horvitz that once a user's state changes, the changed state "applies to the particular client" as asserted by the Examiner. Regardless of how Horvitz's user state changes, the state still corresponds to the context the user is in at some time. Horvitz simply does not disclose how the presence state of an instant messenger client (i.e., a presence state that is part of the IM client, controllable by the user, and visible to other users of similar IM clients) would change in response to the change in the user state—a distinct type of state within a distinct entity (Horvitz's contact manager system).

Similar arguments apply to independent claims 15 and 29, which recite at least some features that are similar to independent claim 1. Appellant is unable to identify language in the remaining cited references that remedies the omissions of Horvitz noted above. Accordingly, Appellant submits that the rejection of independent claims 1, 15, and 29 is unsupported.

Claims 12, 26, 40:

In addition to the reasons given above, Appellant submits that the cited references fail to disclose all of the features of claim 12. Specifically, the cited references fail to disclose "if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user."

In rejecting claim 12, the Examiner alleges that paragraph [0063] of Horvitz discloses this feature. Office Action at 11. Appellant respectfully disagrees. This aspect of Horvitz discusses the setting of "busy level states" of Horvitz's contact manager. However, as noted above with respect to claim 1, the contact manager state of Horvitz is not equivalent to or suggestive of presence state of an instant messenger client.

Moreover, Claim 12 specifically recites that the presence state of the instant messenger client is assigned based on whether a current presence state corresponds to activity status indicated by schedule information. While Horvitz discusses how calendar information may play a role in determining the “busy level state,” Horvitz does not disclose that the busy level state is based on the status of a correspondence between instant messenger presence state and schedule information. That is, Horvitz fails to disclose any particular relationship between these two types of information at all, much less some sort of determination as to whether not they correspond.

Similar arguments apply to claims 26 and 40, which recite at least some features that are similar to independent claim 12. Appellant can identify no language in the remaining cited references that remedies the omissions of Horvitz noted above. Accordingly, Appellant submits that the rejection of claims 12, 26, and 40 is unsupported.

Third ground of rejection:

Claims 4, 18 and 32 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz and Jackson in view of Barsness. Appellant respectfully traverses this rejection for at least the following reasons.

Claim 4 recites that “said activity of said computer system comprises mouse activity.” In rejecting claim 4, the Examiner acknowledges that Horvitz and Jackson do not disclose this feature, and instead relies upon Barsness at col. 11, ll.19-21. Office Action at 11. At the cited location, Barsness discusses “determin[ing] whether there has been any recent user activity such as keyboard input, mouse input, etc.” However, Appellant notes that according to Barsness, “[t]he reason for this check is that it is presumed that very recent activity . . . is a very strong indicator that the user is available, and should probably override any information . . . which indicates otherwise.” Barsness at col. 11, ll.25-30. (emphasis added).

That is, it is a fundamental operating assumption of Barsness that activity indicates user availability. But claim 1 specifically requires transitioning a presence state corresponding to a given user to a busy state in response to determining that an activity level exceeds an activity threshold. This is the opposite of what Barsness discloses. Thus, combining Barsness with other cited references to arrive at the features of claim 4 would contradict a core operating principle of Barsness. But “[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” M.P.E.P. 2143.01 (citing *In re Ratti*, 270 F.2d 810 (C.C.P.A. 1959)). Accordingly, Appellant submits that Barsness cannot properly be combined with Horvitz and Jackson in the proposed manner to establish a *prima facie* case of obviousness with respect to claim 4.

Accordingly, Appellant submits that the rejection of claim 4 and similar claims 18 and 32 is unsupported.

Fourth ground of rejection:

Claims 5, 19 and 33 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz and Jackson in view of Canfield. Appellant respectfully traverses this rejection for at least the reasons given above with respect to the independent claims.

Fifth ground of rejection:

Claims 7, 21 and 35 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz and Jackson in view of Burnley. Appellant respectfully traverses this rejection for at least the reasons given above with respect to the independent claims.

Sixth ground of rejection:

Claims 10, 24 and 38 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz and Jackson in view of Matsumoto Publication 2001/0025314) (hereinafter Matsumoto). Appellant respectfully traverses this rejection for at least the reasons given above with respect to the independent claims.

Seventh ground of rejection:

Claims 11, 25 and 39 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz, Jackson and Matsumoto in view of Barsness. Appellant respectfully traverses this rejection and submits that Barsness cannot permissibly be combined with the remaining cited references to form the basis of a prima facie obviousness rejection for at least the reasons given above with respect to claim 4.

Eighth ground of rejection:

Claims 13, 14, 27, 28, 41 and 42 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Horvitz and Jackson in view of Horvitz '753. In addition to the reasons given above with respect to the independent claims, Appellant traverses this rejection for at least the following reasons.

In addition to the features required by claim 1, claims 13 requires “determining said presence state of said instant messenger in response to receiving [an] instant messaging operation; and selectively processing said instant messaging operation dependent upon said presence state in response to said determining.” Claim 14 requires “storing an instant messaging operation associated with a given presence state of said instant messenger, wherein said given presence state corresponds to a given user; detecting a transition to said given presence state subsequent to said storing; and performing said instant messaging operation in response to said detecting.” In rejecting claim 13 and 14, the Examiner implicitly acknowledges that Horvitz and Jackson do not

disclose these features, and asserts that paragraphs [0047] and [0069] of Horvitz '753 as disclosing these features. Office Action at 15-16. Appellant respectfully disagrees for at least the following reasons.

Like Horvitz, Horvitz '753 is directed to a system for facilitating communications on behalf of a user. In particular, Horvitz '753 discloses that communications may be sourced from any of a number of notification sources, prioritized, and delivered to the user via any one of a number of notification sinks. Horvitz '753 at [0105]-[0118] & FIG. 15. The delivery of the communications is performed according to a notification engine that takes into account the outputs of a prioritization system and a context analyzer. *Id.* Various aspects of this system attempt to take into account the state of the user of the system when deciding how to process communications.

But as noted above with respect to claim 1, the state of a user in the abstract is not the same as instant messenger presence state. That is, Horvitz '753 attempts to determine whether or not a user is “busy” when determining whether to deliver a message. Moreover, Horvitz '753 discloses that the message to be delivered might be an instant message. *See, e.g., id.* at [0101]-[0102] & FIG. 13. Nowhere, however, does this reference disclose that in making that determination, the presence state of the instant messenger is taken into account. Indeed, Horvitz '753 mentions a number of factors that may be accounted for in determining the context of a user, such as the user’s physical position as determined by various types of sensors. *Id.* at [0009]. But in providing these details, Horvitz '753 specifically omits mentioning the presence state of an instant messenger. To the extent that Horvitz '753 discusses instant messaging at all, it is as one of many types of notification sources (i.e., sources of content to be delivered, rather than context information).

Thus, to the extent that Horvitz '753 can be said to “selectively process[] an instant messaging operation,” the reference fails to disclose that such processing be “dependent upon said presence state [of an instant messenger] in response to said determining [of the presence state of the instant messenger]” as required by claim 13.

Similarly, because Horvitz '753 does not disclose any particular control activity that occurs dependent upon presence state of an instant messenger, the reference fails to disclose “detecting a transition to said given presence state subsequent to said storing; and performing said instant messaging operation in response to said detecting” as required by claim 14.

Accordingly, Appellant submits that the rejection of claims 13, 14, 27, 28, 41, and 42 is unsupported.

CONCLUSION

For the foregoing reasons, it is submitted that the rejection of claims 1-42 was erroneous, and reversal of this decision is respectfully requested.

Appellant notes that because this Appeal Brief is presented within one month of the Notice of Panel Decision, no fee for extension of time should be necessary. The Commissioner is authorized to charge the appeal brief fee of \$540.00 and any other fees that may be due to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-69700/RCK.

Respectfully submitted,

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VIII. CLAIMS APPENDIX

The claims on appeal are as follows.

1. A method, comprising:

executing an instant messenger client on a computer system;

detecting a computer system activity level indicative of activity of said computer system;

determining whether said activity level exceeds an activity threshold in response to said detecting; and

transitioning a presence state specific to said instant messenger client to a busy state in response to determining that said activity level exceeds said activity threshold, wherein said presence state corresponds to a given user.

2. The method as recited in claim 1, further comprising:

determining whether said activity level does not exceed said activity threshold subsequent to transitioning said presence state to said busy state; and

transitioning said presence state of said instant messenger to an online state in response to determining that said level of computer system activity does not exceed said activity threshold.

3. The method as recited in claim 1, wherein said activity of said computer system comprises keyboard activity.

4. The method as recited in claim 1, wherein said activity of said computer system comprises mouse activity.

5. The method as recited in claim 1, wherein said activity of said computer system comprises one or more simultaneous instant messenger sessions.

6. The method as recited in claim 1, wherein said activity of said computer system comprises processor utilization.

7. The method as recited in claim 6, wherein said processor utilization further comprises a foreground processor utilization corresponding to activity of foreground computer system processes and a background processor utilization corresponding to activity of background computer system processes, and wherein said activity threshold further comprises a foreground process threshold corresponding to said foreground processor utilization.

8. The method as recited in claim 1, wherein said activity of said computer system is configurable by a user from a plurality of types of computer system activity.

9. The method as recited in claim 1, wherein said activity threshold is configurable by a user.

10. The method as recited in claim 1, wherein said activity threshold further comprises a threshold time, and wherein determining whether said computer system activity level exceeds an activity threshold further comprises determining whether a duration of said computer system activity level exceeds said threshold time.

11. The method as recited in claim 10, wherein said threshold time is configurable by a user.

12. The method as recited in claim 1, further comprising:

storing schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time;

querying said schedule information; and

if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user.

13. The method as recited in claim 1, further comprising:

receiving an instant messaging operation directed to a given user, wherein said given user is not offline;

determining said presence state of said instant messenger in response to receiving said instant messaging operation; and

selectively processing said instant messaging operation dependent upon said presence state in response to said determining.

14. The method as recited in claim 1, further comprising:

storing an instant messaging operation associated with a given presence state of said instant messenger, wherein said given presence state corresponds to a given user;

detecting a transition to said given presence state subsequent to said storing; and

performing said instant messaging operation in response to said detecting.

15. A computer-accessible storage medium storing program instructions, wherein the program instructions are computer-executable to:

implement an instant messenger client executable on a computer system;

detect a computer system activity level indicative of activity of said computer system;

determine whether said activity level exceeds an activity threshold in response to said detection; and

transition a presence state specific to said instant messenger client to a busy state in response to said determination that said activity level exceeds said activity threshold, wherein said presence state corresponds to a given user.

16. The computer-accessible storage medium as recited in claim 15, wherein said program instructions are further computer-executable to:

determine whether said activity level does not exceed said activity threshold subsequent to transitioning said presence state to said busy state; and

transition said presence state of said instant messenger to an online state in response to determining that said level of computer system activity does not exceed said activity threshold.

17. The computer-accessible storage medium as recited in claim 15, wherein said activity of said computer system comprises keyboard activity.

18. The computer-accessible storage medium as recited in claim 15, wherein said activity of said computer system comprises mouse activity.

19. The computer-accessible storage medium as recited in claim 15, wherein said activity of said computer system comprises one or more simultaneous instant messenger sessions.

20. The computer-accessible storage medium as recited in claim 15, wherein said activity of said computer system comprises processor utilization.

21. The computer-accessible storage medium as recited in claim 20, wherein said processor utilization further comprises a foreground processor utilization corresponding to activity of foreground computer system processes and a background processor utilization corresponding to activity of background computer system processes, and wherein said activity threshold further comprises a foreground process threshold corresponding to said foreground processor utilization.

22. The computer-accessible storage medium as recited in claim 15, wherein said activity of said computer system is configurable by a user from a plurality of types of computer system activity.

23. The computer-accessible storage medium as recited in claim 15, wherein said activity threshold is configurable by a user.

24. The computer-accessible storage medium as recited in claim 15, wherein said activity threshold further comprises a threshold time, and wherein determining whether said computer system activity level exceeds an activity threshold further comprises determining whether a duration of said computer system activity level exceeds said threshold time.

25. The computer-accessible storage medium as recited in claim 24, wherein said threshold time is configurable by a user.

26. The computer-accessible storage medium as recited in claim 15, wherein said program instructions are further computer-executable to:

store schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time;

query said schedule information; and

if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assign a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user.

27. The computer-accessible storage medium as recited in claim 15, wherein said program instructions are further computer-executable to:

receive an instant messaging operation directed to a given user, wherein said given user is not offline;

determine said presence state of said instant messenger in response to receiving said instant messaging operation; and

selectively process said instant messaging operation dependent upon said presence state in response to said determining.

28. The computer-accessible storage medium as recited in claim 15, wherein said program instructions are further computer-executable to:

store an instant messaging operation associated with a given presence state of said instant messenger, wherein said given presence state corresponds to a given user;

detect a transition to said given presence state subsequent to said storing; and

perform said instant messaging operation in response to said detecting.

29. A system, comprising:

a computer system; and

an instant messenger client software module configured to execute on said computer system;

wherein said instant messenger software module is further configured to:

detect a computer system activity level indicative of activity of said computer system;

determine whether said activity level exceeds an activity threshold in response to said detection; and

transition a presence state specific to said instant messenger client software module to a busy state in response to said determination that said activity level exceeds said activity threshold, wherein said presence state corresponds to a given user.

30. The system as recited in claim 29, wherein said instant messenger software module is further configured to:

determine whether said activity level does not exceed said activity threshold subsequent to transitioning said presence state to said busy state; and

transition said presence state of said instant messenger software module to an online state in response to determining that said level of computer system activity does not exceed said activity threshold.

31. The system as recited in claim 29, wherein said activity of said computer system comprises keyboard activity.

32. The system as recited in claim 29, wherein said activity of said computer system comprises mouse activity.

33. The system as recited in claim 29, wherein said activity of said computer system comprises one or more simultaneous instant messenger sessions.

34. The system as recited in claim 29, wherein said activity of said computer system comprises processor utilization.

35. The system as recited in claim 34, wherein said processor utilization further comprises a foreground processor utilization corresponding to activity of foreground computer system processes and a background processor utilization corresponding to activity of background computer system processes, and wherein said activity threshold further comprises a foreground process threshold corresponding to said foreground processor utilization.

36. The system as recited in claim 29, wherein said activity of said computer system is configurable by a user from a plurality of types of computer system activity.

37. The system as recited in claim 29, wherein said activity threshold is configurable by a user.

38. The system as recited in claim 29, wherein said activity threshold further comprises a threshold time, and wherein determining whether said computer system activity level exceeds an activity threshold further comprises determining whether a duration of said computer system activity level exceeds said threshold time.

39. The system as recited in claim 38, wherein said threshold time is configurable by a user.

40. The system as recited in claim 29, wherein said instant messenger software module is further configured to:

store schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time;

query said schedule information; and

if a current presence state of said instant messenger software module does not correspond to said activity status indicated by said schedule information, assign a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user.

41. The system as recited in claim 29, wherein said instant messenger software module is further configured to:

receive an instant messaging operation directed to a given user, wherein said given user is not offline;

determine said presence state of said instant messenger software module in response to receiving said instant messaging operation; and

selectively process said instant messaging operation dependent upon said presence state in response to said determining.

42. The system as recited in claim 29, wherein said instant messenger software module is further configured to:

store an instant messaging operation associated with a given presence state of said instant messenger software module, wherein said given presence state corresponds to a given user;

detect a transition to said given presence state subsequent to said storing; and

perform said instant messaging operation in response to said detecting.

IX. EVIDENCE APPENDIX

No evidence submitted under 37 CFR §§ 1.130, 1.131 or 1.132 or otherwise entered by the Examiner is relied upon in this appeal.

X. RELATED PROCEEDINGS APPENDIX

There are no related proceedings.